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OFFICE OF PETITIONS

In re Patent No. 6,518,733 :
Issue Date: February 11, 2003 :DECISION GRANTING PETITION
Application No. 09/921,466 :UNDER 37 CFR 1.137(f)
Filed: August 3, 2001 :
Attorney Docket No. LT-139 :

This is a decision on the petition under 37 CFR 1.137(f), filed April 9, 2003, to accept an unintentionally delayed notification of the filing of an application in a foreign country which is the subject of the instant application.

The petition under 37 CFR 1.137(f) is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on July 25, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6,518,733 on February 22, 2003. Accordingly, no further action being required, this patented file is being forwarded to Files Repository.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.



Frances Hicks

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy